

MINUTES

NAVAJO COUNTY PLANNING AND ZONING COMMISSION HEARING

March 18, 2010

ATTENDANCE P & Z Commissioners

ATTENDED

Evelyn M. Meadows
Carol Davis
Bob Hall
Ruth Ann Smith
Jason Hatch
Wendell DeCross
Bill Rawlings
Chuck Teetsel

ABSENT

Joel Lawson
Rick Slone
Robert K. Black, Jr
Rick Slone

Staff Attendance

Greg Loper
Bill Fraley
Trent Larson

Alberto L. Peshlakai
Bill Bess
Lance Payette

Meeting held at the Navajo County Board of Supervisors Chambers, Holbrook, Arizona – Time: 6:02 to 8:07 p.m.

Chairman, **Wendell DeCross** called the meeting of the Navajo County Planning & Zoning Commission to order. Mr. DeCross led the Pledge of Allegiance and explained the meeting procedures to the public, as well as some of the housekeeping rules. He asked those who wish to address the Planning and Zoning Commission to come to the podium, and state their name prior to speaking, and reminded everyone to be sure to sign in. Mr. DeCross announced that they were going to change the way the Commissioner's vote. In the past they have done a role call vote, now there will be a voice vote, unless it is close; then they will vote by role call.

Item #1. SPECIAL USE PERMIT, METEOROLOGICAL TOWER & WIND POWER GENERATING TOWERS:
Discussion and possible action on a request by Iberdrola Renewable, Inc. for a Special Use Permit to place a permanent Meteorological testing tower for the purpose of measuring wind, and to place wind power generating towers and related facilities for the purpose of developing alternative power known as the Dry Lake II project, on APN: 202-27-004, in Section 19, T14N, R21E., APN: 202-007-006, in Section 7, T14N, R21E, APN 202-26-001, in Sections 1, 13, & 23, T14N, R20E, APN 202-26-012, in Section 22, T14N, R20E, and APN's 202-50-001 through APN 202- 50-016 in Section 17, T14N, R21E in the north Snowflake area.

Greg Loper presented the Staff Report for the Special Use Permit, for Meteorological Tower and Wind Power Towers located 2 miles north of the northwestern boundary of the Snowflake Town limits of Highway 77 and displayed a site plan as part of the presentation. One permanent meteorological tower at a height of 258 feet, and a wind power electrical generating facility providing for a total output of 65.1 megawatts ("MW"). This would be accomplished by allowing from 31 to 43 "wind towers", along with other accessory uses such as an Operations & Maintenance Building, electrical substation. **Mr. Loper** said the Special Use Permit is to allow the placement of permanent meteorological testing towers for the purpose of developing alternative power known as the Dry Lake II project on approximately 10,240 acres in the north Snowflake area. Staff has not received any specific written opposition for this project. However, staff has received a significant amount of opposition and concern to wind power in general, primarily in regard to its purported effects on health (primarily noise), safety, viability, visual impacts, and property values. Staff has received two letter of support for this project from adjacent property owners (Farmer John and Aztec Land & Cattle), and did receive verbal support from a property owner who resides near the site. It should be noted that Iberdrola conducted three public meetings and invited members of the public to review and comment on their proposal. The details regarding these meetings and their outreach efforts are included in the application materials submitted by Iberdrola. **Mr. Loper** provided a brief overview of the characteristics of the area, of which the nearest residential uses are over 2 miles from the boundary of the project/site. The existing Iberdrola/Dry Lake wind generating facility is located approximately 4 miles to the west of the subject site. The Snowflake Town Limits are approximately 2 miles to the south of the subject site; the central business district is

located approximately 7 miles to the south. **Mr. Loper** said the proposal is to allow a wind power electrical generating facility that would provide for a total output not to exceed 65.10 ("MV"). This would be accomplished by allowing 31 to 43 "wind towers", along with other accessory uses and infrastructure such as an Operations & Maintenance Building, a permanent meteorological tower, electrical substation, electrical transmission lines, roadways, etc. The actual number of wind turbines that will be used depends upon the choice of turbine type – different turbines produce different amounts of electricity. The "Suzlon" turbine (same as those used at the existing Dry Lake facility) generates 2.1 MV of electricity, and if this turbine is used it will require 31 turbines to achieve 65.1 MV. The other two types of turbines under consideration are the "Gamesa" (requires 32 turbines) and the "General Electric" (requires 43 turbines). **Mr. Loper** provided information about the setbacks, as proposed, the minimum setback from any of the corridors to the Special Use Permit boundary is 509 feet, which equates to 131% of the total height of the wind tower (from the ground to the tip of the blade when "pointing straight up"). This setback is less than the one that would otherwise be supported by staff, except that in this instance the adjacent private property owners have provided an acknowledgement of the proposed 509' setback (copies of their letters are included). The other properties where a minimum setback of 509' may occur are either "publicly-owned" (such as the State of Arizona), or are owned by someone also considering wind generation (the "F Bar" wind & solar project – pending – is adjacent to the eastern boundary of Dry Lake II. In fact a portion of the "F Bar" project is now included in the Dry Lake II project). It should also be noted that the Dry Lake II project includes State lands. Staff supports this lesser setback in instances where the adjacent property owners acknowledge and agree to the setback. **Mr. Loper** covered issues pertaining to sound/noise. In the Dry Lake II proposal, Iberdrola includes "worst case" information (both an acoustical analysis and a map) which indicates that although there will be sound generated by their proposed facility, the sound should not exceed minimum levels deemed to be considered as "noise" at the exterior of the nearest existing residences (located over 2 miles away). For those properties which may "hear" the project (based on Iberdrola's submittal), they are properties for which either a letter has been received that acknowledges the proposed use (Aztec and Farmer John's), or private land that is also involved in a similar proposal (F-Bar, which is also participating in Dry Lake II). Staff, has included stipulations designed to provide long-term monitoring of the sound ("noise") generated by this use. Decommissioning was also reviewed; staff has been working with Iberdrola regarding the decommissioning of the project – either after the projects "lifespan" or as a result of abandonment at any point. By decommissioning, staff is seeking that all improvements be removed and the site restored to its previous "native" condition, and that some method of financial assurance be provided by the developer in the "worst case" event that Navajo County has to contract with someone for the removal of the improvements. Other issues discussed were the Outreach conducted by Iberdrola, as noted previously. **Mr. Loper** said notices of the application were sent to the Town of Snowflake who hasn't taken an official position on the proposed project, the Arizona Game & Fish Department, the U.S. Fish and Wildlife Service who supports the stipulations and will assist in location of towers, and to ARENA (Alliance for Responsible Energy of Northern Arizona). **Mr. Loper** read the Meteorological Tower Stipulations. **Chuck Teetsel** had a question concerning stipulation number 9 which stated, the latitude/longitude coordinates need to be disseminated. Does the FAA need to be included so they can mark it on the charts? **Greg Loper** responded that he will allow the applicant to respond but if the tower is over 200' in height they will have to go through the FAA process. **Chuck Teetsel** asked what is the purpose of the security fence around the guy-wire attachments and footings. **Greg Loper** responded there are roadways are nearby, to protect vehicular traffic (ATV's, Dirt Bikes, and Bikes etc.) especially in low light conditions, and to prevent wildlife from entanglement which will also protect the footing. **Chuck Teetsel** asked why there isn't a minimum height could it be six feet versus a maximum of eight feet. **Greg** suggested adding "minimum of 6 feet" to stipulation number 5 which reads, Guy-wire attachments/footings (if used) shall be enclosed by a security fence with a *minimum of 6'* and maximum height of 8' (excluding barbed wire or cyclone wire). **Chuck Teetsel** asked about stipulation B on Sound, if there is a maximum permitted threshold of 40 dBA in this instance, why is there an allowance for two additional dBA if 40 is the maximum. **Greg Loper** responded that the intent was to acknowledge that over the life of the facility there may be a slight increase of noise due to the mechanics of the operation. **Chuck Teetsel** asked if the dBA was to exceed by 20 dBA, will there be an additional study to determine why it exceeded 40 dBA and what the consequence ~~is~~ would be if that does occur, ~~s~~ and what action would be taken to address that issue. **Greg Loper** responded that it would be based on ~~a~~ complaints and our policy today is that we would report to Iberdrola and ask them to address the issue, or take steps to address the noise with that turbine(s). **Chuck Teetsel** asked if there is a timeframe in place for the developer to address the issue. **Greg Loper** said that there should be a timeframe, but they thought is that staff foresaw different scenarios, and they different variations of complaints staff has left that open, but- the applicant should address the issue as quickly as

possible. Iberdrola has its own complaint system as does Navajo County. **Mr. Teetsel** asked about O: Miscellaneous/Other 2 & 3 as to if documentation needs to be confirmed before the issuance of building permit. **Ruth Ann Smith** asked for clarification to the output of 65.1 MW as to why 65.1 MW was selected. **Greg Loper** said the applicant will address that question.

Owner/Applicant Comments:

Mark Stacy is the Director of Development for the Rocky Mountain Region for Iberdrola Renewable at 229 Stetson Drive, Cheyenne, Wyoming. Iberdrola is in support of the County's efforts to enact a good ordinance and is willing to work with the County to implement the Special Use Permit process. Iberdrola isn't new to the area, and they are now here for the second phase in the Dry Lake area known as Dry Lake II. **Chris Bergen** of 1320 Pearl Street Suite 330, Boulder, Colorado 80302, Project Developer for Dry Lake II, added more specifics details to those presented by Mr. Loper. Dry Lake I produce 63 MW which was built in 2009 with 30 "Suzlon" Wind Turbines, and it exceeded their expectations in production last year. To date there have been no complaints with Dry Lake I. Dry Lake II will produce 65.1 MW which includes one additional wind turbine. To address the question as to why is it up to 65.1 MW was due to an interconnection agreement that was executed with APS for two different phases of the project. Both phases were 64 MW for Dry Lake East and West, Dry Lake West which was constructed last year ended up installing one less turbine to generate 63 MW so the balance went over to Dry Lake II which still works to be in compliance with the interconnection agreement. Mr. Bergen clarified an error on the NZ Legacy application which included section 17 leases as a part of their proposed project, but actually belongs to Iberdrola. In December Iberdrola executed an interconnection agreement with APS for 64 MW for phase II, the anticipated schedule for construction would begin mid June 2010, and commercially operational starting March 1, 2011. The two major points, Suzlon s88 Wind Turbines will be used again as they are used in Dry Lake I with 31 turbines with 260' towers, 289' Rotors and a tip height of 404'. The set backs at 131% will be 129 feet from the non participating property lines. Secondly, executions of a power purchase agreement with full output between SRP and Iberdrola which will have the total output of 65.1. **Mark Stacy** provided answers to the following: Who are the customers for the power generated by these facilities? SRP (Salt River Project) will receive the entire output of the 65.1 MW. What are the limitations if (?) any on the existing transmission facilities and infrastructure in the area and what plans they may or may not be to expand those facilities? Mr. Stacey couldn't provide an answer. **Chuck Teetsel** referenced page 3 of the project development proposal referred to 75 MW. Was it scaled back due to capacity? **Mr. Stacy** responded yes and answered the question on what the benefits are for the residents of Navajo County? Mr. Berger said eleven good jobs will be created, and there will be an impact to the economy. **Chuck Teetsel** asked how many states have facilities under Iberdrola. **Mr. Stacy** responded 19 states. **Chuck Teetsel** asked what additional fees have been paid by Iberdrola in other jurisdictions that they didn't pay in Navajo County. **Mr. Stacey** said there is a very wide range, and asked Kristen Goland to respond to Mr. Teetsel's question. **Kristen Goland**, 1125 NW Nato Parkway, Portland, Oregon, Senior Project Manager for Iberdrola said the highest amount known is \$25,000.00 in New Hampshire, but states have different permitting processes and amounts differ and may be based on the linear structure, and acreage. **Question**, how do subsidies affect the decision to pursue a project and what happens to a project if the subsidies went away? **Mr. Stacy** respond that subsidies the wind energy receives are from the federal government and the wind industry seems to be tagged with the notion that the wind industry can't survive without the subsidies to a certain extent, which may be true but to a broader scale Fossil Fuels are subsidized far great than wind energy. It won't have an affect on the project due to that it's guaranteed for certain periods that's renewed annually. **Question**, who (utility, operator, land owner, etc.) is responsible for improvements to the utility infrastructure in terms of generation to the end user (transmission, etc.)? **Mr. Stacy** said if the facilities that are built or any generator, then the substation for example that is under the direct supervision of Iberdrola, improvements to the facility, all users that in not the generating cost, it's a network cost, payments, rebates over time, one they are responsible is the station that is there, or one that is the end side of the consumer. **Question**, what is the long term focus for wind and alternative energy? **Mr. Stacy** responded, long term goal is to have a profitable business, which is there long term goal is to stay in business. Iberdrola goal is to increase its output. **Question**, what's the possible implication for the industry should the political winds change? **Mr. Stacy** responded, their environmental friendly for wind energy, and conservative end as well, the conservative, when it comes to it we are nuts and bolts, during the most recent examples the Bush Administration the industry was really thriving, the economy as a whole has put little damper on the wind energy industry. **Kristen Goland** commented further in reference to the additional 2 dBA increase. Sound emissions from the blade as it moves, at a farther distance it won't change but as you are closer the noise level would increase to where you can hear the mechanics. **Mark Stacy** clarified further the sound contours

on these is for the worst case scenario the turbine Iberdrola intends to use is the quietest of the three turbines that were considered to construct at Dry Lake II. **Chris Bergen** commented about the minimum fence height isn't a problem and further address the concern of complaints that will be addressed immediately which will be determined on a case by case basis.

In Favor:

John Sorensen, who resides at 3966 Turkey Trail, Lakeside, AZ and representative of International Brotherhood of Electrical Workers, who did the electrical wiring on the Dry Lake I and are going to do the electrical wiring for Dry Lake II. **Bill Elkins** of P.O. Box 2676 Snowflake, AZ, a property owner where Dry Lake I has been developed on and stated he is in favor of the proposed development of Dry Lake II. **Chris Wyman** who has work experience in the audio of quality control technician for the audio reproduction industry stated that they will be moving into the area about a mile away from the proposed Dry Lake II and presently residing in a temporary housing. They had concerns of the noise in the beginning, but after careful evaluation of the Dry Lake I they are pleased to note that the noise is not as bad as people say it will be. **Steven Rees**, resident of Maricopa County, and representative of Langley Holdings who owns F-Bar Ranch stated that section 17 has been leased to Iberdrola, and was mistakenly included with NZ Legacy, section 17 was and has always been identified as an Iberdrola site. **Daylon Flake**, property owner within section 19 briefly stated he is in favor of the proposed project.

Opposed:

Dr. Eleanor Clark, a practicing physician/surgeon of the Casa Grande which is her primary residence, and a property owner near the proposed NZ Legacy sites. Ms. Clark briefly discussed the concerns relating to Wind Turbine Syndrome. **Kathy Hemenway**, 8452 Hausa Trail, who resides 5 miles east of the proposed Dry Lake II and who is the Executive Director of ARENA (Alliance for Responsible Energy of Northern Arizona). Ms. Hemenway stated that the developments of these turbines are in remote areas, which Dry Lake I fall within a remote location, and Dry Lake II is not a remote location which falls on the northwestern doorstep. Ms. Hemenway briefly spoke of concerns relating to visual and hearing impacts. **Dale Lewis** resident along Hay Hollow Road, Mr. Lewis asked how will complaints be handled after development of Dry Lake II, Mr. Lewis asked if Iberdrola has a process in place to address complaints that it be provided to staff. **Steen Hviid** of 5707 Martin Road, 7 miles east of the project that is neutral to this proposed development and requested the decibel be reduced to 30 due to 40 is high.

Staffs Questions/Comments:

Greg Loper confirmed that Dry Lake I has not had, nor isn't aware, of any complaints.

Commission Comments:

Chuck Teetsel commented that the expense the county may incur over the next couple of years pertaining to met/wind towers that staff should put into consideration as well while developing the wind ordinance that fees be increased due to the numbers of permits being requested that may be installation, building, review, operating fees and whatever it may be to generate the money to employ an individual to be responsible as the wind industry expert task with researching, compiling information, doing inspections, noise level inspections, and so forth. **Greg Loper** stated that Snowflake will not take a stance on the issue at hand but is awaiting additional information before deciding. **Jason Hatch** asked where the figure of 6,000 wind turbines came from. Unidentified individual responded. **Greg Loper** further clarified further in regards to Mr. Hatch's question. **Jason Hatch** further commented in favor of the unofficial proposed development of wind energy. **Evelyn M. Meadows** asked how many people are in favor/opposition at the two public hearings that were held at the Northland Pioneer College Silver Creek campus. **Greg Loper** responded that there were actually three meetings, the first at the Dry Lake facility, and from his understanding were concerned with Wind Energy as too opposed to wind energy.

A motion was made by **Chuck Teetsel** to approve this Special Use Permit with recommendations and conditions as recommended by staff and as modified to address fence heights. **Chuck Teetsel** also commented that he urged staff and the Board of Supervisors to consider associated fees that would result in a financial benefit for the county and to defray the employee-related costs necessary to develop, implement and administer the wind generation ordinance.

PLANNING COMMISSION RECOMMENDATION: *Should the Board of Supervisors approve this Special Use Permit request, the Planning Commission recommends that the following stipulations be applied:*

I. Meteorological Tower. *The following stipulations shall apply to the Meteorological Tower portion of the Special Use Permit:*

- 1. This Special Use Permit shall allow for the installation of one (1) permanent meteorological tower, with a maximum height of 80 meters (approximately 258 feet).*
- 2. The meteorological tower shall be allowed to occur only in the location as indicated on the approved site plan, except as may otherwise be approved by the Navajo County Public Works Department.*
- 3. Building permits are required for the meteorological tower and any accessory uses (such as fences, etc.), and the issuance of a permit is required prior to the placement of the meteorological tower.*
- 4. A Floodplain Use Permit (where required) shall be obtained prior to issuance of any building permits.*
- 5. Guy-wire attachments/footings (if used) shall be enclosed by a security fence with a minimum height of 6 feet and a maximum height of 8 feet (excluding barbed wire or cyclone wire).*
- 6. Contact information regarding who to contact in the event of an emergency or any problems with the meteorological tower or its associated uses and structures shall be placed at the site of the meteorological tower or the related fence (if any). The information is to include the company name, a contact name, and phone number for someone who can be reached 24 hours a day, 7 days a week. This information shall also be provided on the applicant's website related to this project.*
- 7. The meteorological tower shall include the installation of low-intensity, red pulsating/blinking lighting for night-time visibility that conforms to FAA regulations. The use of strobes or strobe-type lighting is prohibited unless expressly required by the FAA.*
- 8. Before the start of construction and as development progresses, the applicant shall consult with and obtain written comments from the Arizona Game & Fish Department and the U.S. Fish & Wildlife Service (Flagstaff Ecological Services Field Office) regarding measures to minimize the impact on birds and wildlife of the facilities and operations authorized by this Special Use Permit. The applicant shall give due consideration to the concerns and recommendations of these agencies and shall use all reasonable efforts to satisfy their concerns and to minimize the impact on birds and wildlife. The location and construction of facilities shall be generally consistent with the Arizona Game & Fish Department's "Guidelines for Reducing Impacts to Wildlife from Wind Energy Development in Arizona" and shall incorporate best available technologies and industry practices to minimize the impact on birds and wildlife.*
- 9. Prior to acquiring a building permit, the applicant shall provide latitude and longitude coordinates (North American Datum of 1983) of the final site of the meteorological tower to the Navajo County Public Works Department and to the Arizona Game & Fish Department.*
- 10. The meteorological tower shall be located so it shall not fall onto an adjacent property nor another structure.*
- 11. Prior to issuance of any building permits for the meteorological tower, the applicant shall submit to the Navajo County Public Works Department information regarding the manufacturer of the*

tower, structural information, information regarding who to contact in the event of an emergency or any problems with the tower, and information regarding how data is collected and transmitted.

12. Development and use of the site shall include efforts, consistent with Best Management Practices, to reduce and mitigate dust created by this project. Efforts shall also be made to reduce the removal of vegetation during construction and use of the site and any roadways that provide access to the site. Upon the removal of the meteorological tower and associated structures, the site and any roadways that provide access to the site shall be restored and re-vegetated to their current/native condition.

II. Wind Towers & Related Facilities/Accessory Uses. The following stipulations shall apply to the Wind Towers and Related Facilities/Accessory Uses portion of the Special Use Permit:

A. Maximum Number / Output:

This Special Use Permit shall allow the development of a wind power generating facility with a collective nameplate capacity not to exceed 65.1 MW, including the installation of a maximum of 43 wind turbines and the construction of roadways, transmission lines, a transmission substation, operation and maintenance structures, and appurtenant infrastructure as identified in the Special Use Permit application and related materials.

B. Sound:

1. Acoustical Analysis presented at time of Special Use Permit ("SUP").

The calculated sound emission level, from the "Acoustical Analysis of the Dry Lake II Wind Energy Project" for the Special Use Permit, shall not exceed 50 dBA along the SUP Boundary. The calculated sound emission level at the exterior of any existing residential structure (shown on the Acoustical Analysis Site Plan) shall be no greater than 40 dBA. Provided, however, that either of these sound levels may be exceeded if the affected property owner agrees in writing to a tower placement that results in a higher sound level.

2. Post Construction Sound Measurement Study.

A Post Construction Sound Measurement Study of the Dry Lake II Wind Energy Project shall be prepared to measure the actual sound emission levels from the operational turbines. The study shall be completed within 2 months after the commencement of the generation of electricity. If the study cannot be completed within 2 months, the applicant shall provide the Navajo County Public Works Department with a viable reason for the delay and a reasonable timeframe for completion. The sound emission levels shall be measured along the SUP Boundary at 1,500' maximum intervals and at the exterior of existing residential structures within the 40dBA contour denoted in the "Acoustical Analysis of the Dry Lake II Wind Energy Project" or a monitoring plan approved by the Navajo County Public Works Department. The measured sound emissions along the SUP Boundary shall not exceed the calculated sound emission levels from the "Acoustical Analysis of the Dry Lake II Wind Energy Project". The measured sound emission at the exterior of any existing residential structure (shown on the Acoustical Analysis Site Plan) shall not exceed 40 dBA. Provided, however, that either of these sound levels may be exceeded if the affected property owner agrees in writing to a tower placement that results in a higher sound level. The Post Construction Sound Measurement Study shall be subject to review and approval by the Navajo County Public Works Department.

3. Updates to the Post Construction Sound Measurement Study.

Upon commencement of the generation of electricity, the Applicant shall investigate all noise level complaints. If it is determined the measured sound emission exceeds 50 dBA along the SUP Boundary and/or 40 dBA at the exterior of any existing residential structure, the Applicant shall be required to make the necessary adjustments to bring the affected turbine(s) into compliance. Copies of all complaints and applicants findings shall be submitted to the Navajo County Public Works Department. Over the operational life of the facility, the measured sound levels of the facility shall not increase more than 2dBA above the permitted thresholds (Stipulation II.B.1. above). These sound emission Measurement Updates are subject to review and approval by the Navajo County Public Works Department.

- 4. Should the Post Construction Sound Measurement Study Updates indicate that sound associated with the facility has increased more than 2dBA above the permitted thresholds (Stipulation II.B.1. above), the applicant shall provide the Navajo County Public Works Department with a written assessment of likely factors that contributed to the additional sound increase and specific actions proposed to bring the sound levels into compliance. Based on this assessment, Navajo County may require operational or other modifications to the facility to bring sound levels into substantial conformance with the Post Construction Sound Measurement Study. Failure by the applicant to timely make such operational changes as may be required to bring the facility into substantial conformance may result in the possible enforcement of the Special Use Permit as noted in Stipulation II.O.4 below.*
- 5. The Arizona Board of Technical Registration has reviewed the "Acoustical Analysis of the Dry Lake II Wind Energy Project" and has determined it is a professional document and requires it to be sealed by a Professional Engineer licensed in the State of Arizona.*

C. Setbacks:

- 1. The minimum setback for all wind towers (as measured from the base of the wind tower to the perimeter of the Special Use Permit boundary) shall be the greater of either A or B below, except as provided for in II.C.2 below:*
 - a. Setbacks to Zoning District, Use or Ownership:*
 - i. 1,500' from a privately-owned property zoned for residential use (Rural or R1), or an existing residential structure regardless of the zoning district or ownership.*
 - ii. 1,000' from privately-owned property zoned A-General with no existing residential structure(s).*
 - iii. 500' if the property is owned by a public agency such as the State of Arizona, Bureau of Land Management or U.S. Forest Service.*
 - or,*
 - b. If stipulated by the manufacturer, the minimum setback distances as recommended by the specific turbine manufacturer.*
- 2. A lesser setback from those noted in II.C.1 above may be approved by the Director of Public Works, provided that all of the following are met:*
 - a. Affected non-participating adjacent property owners provide written acknowledgment and agreement to the lesser setbacks as they pertain to their property; and,*

- b. The proposed setback is not less than the minimum distance provided in II.C.1.b above (manufacturer's recommendation).*
- 3. All accessory uses and buildings identified in the Special Use Permit application and related materials, including the transmission substation, operations and maintenance building, etc., shall be developed and placed in accordance with the development standards of the underlying Rural-20 zoning district (this does not pertain to the wind turbine towers themselves). Development of these uses and structures shall adhere to all applicable Navajo County Codes, Standards, and Ordinances.*

D. Decommissioning:

A Decommissioning Plan meeting with staff and County Attorney approval and including financial assurances shall be submitted to the Navajo County Board of Supervisors for review and approval concurrently with this Special Use Permit.

E. Site Plan & Application Materials:

- I. Prior to the issuance of any building or related permits and the commencement of construction, the following are to be submitted for review and approval by the Navajo County Public Works Department:*
 - a. Site Plan. A detailed site plan is to be submitted and is to include, at a minimum, the following information:*
 - i. Precise location of all proposed wind towers, substations, and related structures. Indicate setbacks for all structures to the nearest boundary(ies) of the Special Use Permit. Include latitude and longitude (North American Datum of 1983) for all wind towers, the substation, and the maintenance and operations building.*
 - ii. Location of any proposed operation, maintenance, storage or other buildings, along with details regarding such buildings (building dimensions, footprint, height, square footage, parking, etc.).*
 - iii. Roadways – both on- and off-site – along with the roadway width and proposed surfacing. Off-site roadway information is to be provided to indicate access from site(s) to a dedicated public roadway.*
 - iv. Grading, drainage, topographic and floodplain information, including a drainage report.*
 - v. Location and general type of all transmission lines between wind towers, substations and connections to existing transmission lines in the area.*

All transmission lines within the project boundary shall be located below ground except where this would interfere with sensitive terrain or species, habitats, cultural resources, or existing infrastructure; to span drainages or floodplains where directional boring is infeasible; where topography presents a safety hazard for trenching; or where geotechnical constraints are cost prohibitive, in which case the lines may be allowed to be located above ground with the approval of the Navajo County Director of Public Works.

- b. *Information regarding the wind turbine type, height, sound levels, manufacturer recommendations for setbacks, warranty, etc.*
 - c. *Transportation and Access Plan. The applicant shall submit a Transportation and Access Plan for the development of Phase II to the Navajo County Public Works Department for review and approval. The Transportation Plan shall be similar to the Transportation Plan provided to BLM as part of the Environmental Assessment. The Plan shall provide documentation confirming legal access to the Project Site, and shall also include documentation from the Apache Railway that the proposed railway crossing locations are acceptable. In addition, the Transportation Plan shall provide documentation from the Arizona Department of Transportation (ADOT) indicating what, if any, improvements may be required to State Route 77 and/or the existing gravel road turnout to the Arizona Public Service Sugar Loaf Substation or if the existing improvements are acceptable for the future construction traffic. Should ADOT require additional work to the existing turnout and/or construction traffic signage, the applicant shall provide a copy of the ADOT permit and plans to the Navajo County Director of Public Works and County Engineer for their review and approval as part of the construction permit.*
2. *Except as modified and approved pursuant to Stipulation II.E.1 above or other Stipulations noted in the approval of this Special Use Permit, the project shall be developed in substantial conformance to the site plans, project description, exhibits, elevations, and related materials submitted to and approved by the Navajo County Board of Supervisors.*

F. Lighting:

- 1. *Concurrent with the submittal of an application for any building or related permits for any wind towers, the applicant shall provide information regarding the type of safety lighting that is proposed and confirmation that the safety lighting is in conformance with FAA regulations. The use of low-intensity, red pulsating/blinking lighting similar to that used within the existing Dry Lake facility for night-time visibility is preferred, as long as such lighting conforms to FAA regulations. The use of strobes or strobe-type lighting is prohibited unless expressly required by the FAA.*
- 2. *All other outdoor lighting shall be fully shielded and shall be directed downward, and shall be activated by motion detectors except where used for on-going operations or maintenance.*

G. Signage:

- 1. *Permanent signage associated with the project is limited to the following:*
 - a. *“Contact Info” sign. No more than one, and no larger than 16 square feet in size, which shall be placed at the entrance to the development that provides information regarding who to contact in the event of an emergency or any problems with the operation or its associated uses and structures. The information is to include the company name, a contact name, and phone number for someone who can be reached 24 hours a day, 7 days a week. It shall also include the phone number to the “Project Contact Hot Line” noted in Stipulation M.*
 - b. *“Information and Interpretive” sign. No more than one, placed along State Route 77. A permit from ADOT may be required for any sign designed to be visible from State Route 77 and/or if located in ADOT right-of-way.*

- c. *“Information and Interpretive” sign. No more than one, to be located at the site of the maintenance building.*
2. *No lighting of the signs noted above shall be allowed to occur. All signs shall conform to Navajo County Zoning Ordinance requirements. Permits from Navajo County shall be required for all signs.*

H. Dust Control:

Development and use of the site shall include efforts, consistent with Best Management Practices, to reduce and mitigate dust created by this project. Efforts shall also be made to reduce the removal of vegetation during construction and use of the site and any roadways that provide access to the site.

I. Permits:

1. *A Grading and Drainage plan meeting the requirements of the Navajo County Public Works Department shall be submitted for review and approval and a Grading Permit shall be issued prior to the commencement of any clearing or grading of the site.*
2. *All improvements and infrastructure, including but not limited to wind towers, the meteorological tower, maintenance structures, signs, the transmission substation, temporary construction offices, etc., shall adhere to all applicable Navajo County Codes, Standards and Ordinances, and are subject to applicable building permit and/or other permitting processes. No building or structure may be constructed or occupied prior to complete compliance with all appropriate Public Works Department requirements, including but not limited to grading and drainage plans, flood control requirements (as deemed necessary), and the issuance of building and/or other permits for all proposed improvements and structures.*

J. Height:

The height of any wind towers shall not exceed 492 feet, as measured from the ground to the highest turbine blade tip.

K. Screening:

Any fence or screening materials used for any accessory use or building shall be a minimum of 6 feet high and a maximum of 8 feet high (excluding any barbed or cyclone wire).

L. Floodplain:

Floodplain Use Permits (where required) shall be obtained through the Navajo County Flood Control District prior to any construction.

M. Contact Info:

The applicant shall provide a “Project Contact Hot Line” and make this contact information available to the public. The applicant shall provide a list of any complaints and their resolution to the Director of

Public Works on an annual basis. This information shall also be provided on the applicant's website related to this project.

N. Arizona Game & Fish Department and U.S. Fish & Wildlife Service:

Before the start of construction and as development progresses, the applicant shall consult with and obtain written comments from the Arizona Game & Fish Department and the U.S. Fish & Wildlife Service (Flagstaff Ecological Services Field Office) regarding measures to minimize the impact on birds and wildlife of the facilities and operations authorized by this Special Use Permit. The applicant shall give due consideration to the concerns and recommendations of these agencies and shall use all reasonable efforts to satisfy their concerns and to minimize the impact on birds and wildlife. The location and construction of facilities shall be generally consistent with the Arizona Game & Fish Department's "Guidelines for Reducing Impacts to Wildlife from Wind Energy Development in Arizona" and shall incorporate best available technologies and industry practices to minimize the impact on birds and wildlife.

O. Miscellaneous / Other:

- 1. Within 6 months from the issuance of a Certificate of Occupancy for the commencement of operation of the wind farm facility (commercial production of electricity), the applicant shall provide for post-construction restoration and re-vegetation of temporary construction roadways (including extra width of proposed "permanent" roads) and all construction areas.*
- 2. The applicant shall provide documentation confirming an Interconnection Agreement, and a Power Purchase Agreement (or equivalent documentation).*
- 3. Prior to acquiring a building permit, the applicant shall provide latitude and longitude coordinates (North American Datum of 1983) of the final site for all wind towers, the permanent meteorological tower, the substation, and the maintenance and operations building. This information is to be provided to the Navajo County Public Works Department and to the Arizona Game & Fish Department.*
- 4. Development and operation of the site shall be in full compliance with the Stipulations as noted above for this Special Use Permit. Failure to develop and/or operate the site in full compliance may result in appropriate enforcement action, including without limitation injunctive relief.*
- 5. Material changes or modifications to this development or the site plan shall require an Amendment to this Special Use Permit by the Navajo County Board of Supervisors, upon the recommendation of the Navajo County Planning and Zoning Commission through the public hearing process. Non-material changes that do not alter the approved scope of the project may be administratively approved by the Navajo County Public Works Department.*

The motion was seconded by **Carol Davis** and passed unanimously. In Favor: 8, Opposed: 0

Item # 2 -- Possible approval of February 18, 2010 Minutes. **Ruth Ann Smith** made a motion to table the review and possible action on the minutes of the February 18, 2010, Planning Commission meeting to the next Planning & Zoning Commission Hearing. **Jason Hatch** seconded the motion. In Favor: 8, Opposed: 0, Motion passed

Item # 3 – Department report to Commission.

Greg Loper commented that the Wind Ordinance is still being developed and that there are no pending wind applications except NZ Legacy, which is currently "on hold".

Item # 4 – Commissioners’ comments and/or directions to staff. No comments or directions were provided to staff.

With there being no further business to come before the Planning and Zoning Commission, the meeting was adjourned at 8:07 p.m. A motion was made to adjourn the meeting by **Jason Hatch**. **Joel Lawson** seconded the motion. Motion carried unanimously.

Approved this 20th day of May, 2010

Wendell DeCross

Chairman, Navajo County
Planning & Zoning Commission

ATTEST:

Alberto L. Peshlakai

Secretary, Navajo County
Planning & Zoning Department